

Docket 2001US003
Serial No. 09/883,647
Group 2125

REMARKS

The Office Action mailed June 25, 2004, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

Claim Status

Claims 1, 2, 4-8, 11-13, 15-18, 20, 21, 25-27, and 29-31 stand rejected under 35 USC § 103(a) as being unpatentable over Shakespeare et al. (US 6,272,440 B1) in view of Lawn et al. (US 2002/0042842 A1). This rejection is respectfully traversed.

The Office is of the position that Shakespeare et al. teach a method for color management by a retailer comprising the steps of:

choosing an engineered color standard (ECS), wherein the ECS includes at least reflectance data;

communicating the ECS to a product vendor;

having a product produced using the ECS; and

controlling a product's color quality by generating reflectance data for the product and comparing the reflectance data of the ECS to the reflectance data of the product. The Office further advances Lawn et al. as teaching communicating the ECS to a product vendor, and concludes:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the elements of Lawn et al. into Shakespeare et al. to have provided system which allows a user access to automated tools which provide algorithms for color recommendation or formulation.

It is Applicants' respectful position that the Office has not carried its burden of

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establishing a *prima facie* case of obviousness of the present claims over Shakespeare et al. and Lawn et al. Shakespeare is directed to an apparatus and corresponding method for ensuring that a particular substrate conforms with a known standard during the manufacturing process. See, *inter alia* column 11, lines 10-52.

With respect to independent claim 1, Applicants' invention is directed to a method for color management by a retailer that includes, *inter alia*, the step of choosing an engineered color standard. That is, in Applicants' invention, the retailer must choose a color standard. This step is nowhere taught, disclosed or suggested in Shakespeare because Shakespeare is concerned solely with matching a substrate with a color target during the coloring process. Moreover, Lawn fails to disclose this element of Applicants invention, as Lawn is directed to the dissemination of information between users.

Additionally, in claim 1, the method requires "communicating the ECS to a product vendor." The Office puts forth the position that one with ordinary skill in the art would contemplate altering the Shakespeare reference to include communicating an ECS to a product vendor based upon the alleged teachings of Lawn. Applicants can not agree.

When it is recognized that Shakespeare is directed exclusively to an apparatus and corresponding manufacturing process wherein a substrate is maintained within tolerance of a particular color target, it becomes clear that one with ordinary skill in the art would not be motivated to alter Shakespeare to include sending the ECS to a product vendor. Simply put, there would be no reason for one with ordinary skill in the art to entertain altering Shakespeare to include communicating the ECS to a product vendor because Shakespeare is the product vendor. Respectfully stated, an ordinary artisan, having a knowledge of both Shakespeare and Lawn, would not combine such references in the manner proffered by the Office because there exists no reason to do so. The absence of motivation becomes manifest upon realization that Shakespeare does not have anything to do with color management by a retailer. As the cited references can not

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provide the requisite motivation to arrive at the claimed invention, Applicants respectfully contend that impermissible hindsight has been used to justify the rejection. For at least these reasons, it is respectfully contended that applicant's invention, as defined by independent claim 1 is not made obvious by any combination of Shakespeare et al. and Lawn, either alone or in combination.

With respect to independent claims 2 and 9, for at least the reasons advanced with respect to the rejection of independent claim 1, Applicants contend that such claims are not made obvious by any combination of Shakespeare and Lawn.

Concerning independent claim 17, Applicants' invention is directed to a method for color management including the step of "receiving a product having a color from at least one requestor". There is nothing in Shakespeare or Lawn which teach, disclose or suggest this aspect of Applicants' invention. As this element is nowhere present in the cited references, independent claim 17, and all claims depending therefrom, are patentably distinguishable from Shakespeare in combination with Lawn.

In independent claim 30, Applicants' invention is directed to a method of color management by a retailer requiring the step of "choosing an engineered color standard (ECS), wherein the ECS includes a substrate, and wherein the substrate is dyed the color defined by the ECS. Neither Lawn nor Shakespeare, teach, disclose, or suggest this aspect of the claimed invention, and for at least this reason, it is respectfully contended that independent claim 30, and all claims depending therefrom, are not made obvious by Shakespeare and Lawn, alone or in combination.

Claims 3, 9, 10, 14, 19, and 24 stand rejected under 35 USC § 103(a) as being unpatentable over Shakespeare et al. (US 6,272,440 B1) in view of Lawn et al. (US 2002/0042842 A1) as applied to 1, 2, 17, and 30, and further in view of Breault (US 5,131,910 A1). This rejection is respectfully traversed.

For at least the reasons advanced above with respect to the §103 rejection of claims 1, 2, 17, and 30, dependent claims 3, 9, 10, 14, 19, and 24 are not made obvious by Shakespeare, Lawn and Breault, alone, or in combination.

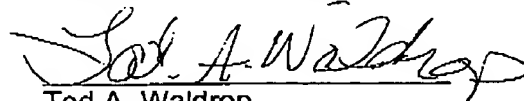
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In view of the foregoing, Applicants courteously solicit reconsideration and withdrawal of the § 103 rejections.

As the total number of claims does not exceed the number of claims originally paid for, no fee is believed due. However, if an additional fee is required, the Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the agent for Applicants at the telephone number provided below.

Respectfully submitted,



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